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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,847	06/27/2003	Hans-Georg Scimetz	BE-113	7097
7590	02/10/2006			
Friedrich Kueffner Suite 910 317 Madison Avenue New York, NY 10017			EXAMINER NGUYEN, THUKHANH T	
			ART UNIT 1722	PAPER NUMBER

DATE MAILED: 02/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/607,847

Applicant(s)

SEIMETZ, HANS-GEORG

Examiner

Thu Khanh T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 5-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Apuzzo (4,392,800) in view of Muirhead (6,294,114).

Apuzzo discloses an molding apparatus, comprising a press mold having a ring shaped die (M1) forming an outer circumference of the product, an upper ram (S1) and a lower ram (P1), a segment ram (P2) integrated in the lower ram (P1) engaging the recesses in the upper ram.

However, Apuzzo fails to disclose a removable core having core segment corresponding with the segment rams.

Muirhead discloses a molding apparatus, comprising a mold having upper mold (44) and lower mold (42), and a core (27) insertable into the mold cavity as a preform for molding the article (col. 16, lines 14-16).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify Apuzzo by providing a core as taught by Muirhead because the core would provide the desired stiffness and the shape to the final product.

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In regard to claims 2-3, the orientation of the core into the mold cavity, it would have been obvious to one of ordinary skill in the art to replace different molding cores that have different structure in order to obtain a product with certain desired properties. There is no invention in merely changing the shape or form of an article without changing its function except in a design patent. See *Eskimo Pie Corp. v. Levous et al.*, 3 USPQ 23 and *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966)

In regard to claim 4, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify Apuzzo by providing means for remove the core in and out of the mold cavity as taught by Muirhead because the core needs to be inserted into the mold cavity prior to the molding process.

In regard to claim 14, wherein the surface of the ram (P1) and the segment ram (P2) is capable of being aligned in an end position (Fig. 2C).

Response to Arguments

3. Applicant's arguments filed November 03, 2005 have been fully considered but they are not persuasive.

The Applicant alleged that Apuzzo fails to disclose a ram segments integrated with one of the lower ram and the upper ram. However, Apuzzo discloses that each of the ram can be one or more rams/segments (col. 3, lines 25-35).

The Applicant further argued that Muirhead disclose a rigid member (27) is not a core, but only a rigid member. It has been know in the molding art that a rigid preform can also be a core

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in a final product. Muihead further discloses an upper mold/ram and lower mold/ram (42) having corresponding shape as the core.

The Applicant further asserted that the lower ram P2, or upper ram S2 in Apuzzo are used for forming different surfaces on the molding article, and have different end position than P1 & S1. However, these rams are adjustable by moving the holder plates and are capable of having the same end position as when remove the product out of the cavity as shown in Fig. 2C.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Khanh T. Nguyen whose telephone number is 571-272-1136. The examiner can normally be reached on Monday- Friday, 6:30-4:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TN


TIM HEITBRINK
PRIMARY EXAMINER
GROUP 130
2-6-06